



# *Federal Flyer*

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## **DeLay, Appropriators Avoid Floor Fight FY 2000 Transportation Spending Bill Passes**

In a move for the record books, the conference report on H.R. 2084, the Fiscal Year 2000 appropriations bill for the U.S. Department of Transportation and Related Agencies, hit the House floor in the early morning on Friday, October 1, 1999 and was completed in less than an hour. What promised to be a great floor battle between **House Transportation and Infrastructure Committee Chairman Bud Shuster** (R – Pennsylvania) with his 75-member committee and **Majority Whip Tom DeLay's** (R – Sugar Land) vote-getting machine ended up being a routine vote with no floor statements from either side.

At issue were the more than 70 legislative riders contained in the conference report. Almost all were opposed by the T&I committee. In a September 22, 1999 letter to leadership, Shuster and committee ranking member **James Oberstar** (D – Minnesota) made it clear that they would fight the conference report if the riders were to remain. The provision that topped Shuster's hit list funds the operations of the Federal Aviation Administration (FAA) out of the Airport and Airway Trust Fund. Traditionally, about 30 percent of FAA funding comes from the general fund, but appropriators in both chambers felt there was ample money in the trust fund to handle both operations and construction.

**DeLay Flexes His Parliamentary Muscle on Conference Report Vote.** To avoid the promised floor battle, the Republican leadership re-arranged the floor schedule sent out the night before, bringing up the FY 2000 Transportation Appropriations Conference Report before the FY 2000 Agriculture Conference Report. The vote on the conference report began before

many on the T&I staff arrived for work. Some ten percent of the House members missed the vote, though the time allowed to vote was extended almost half an hour beyond the announced limit.

In the end, Shuster found himself in the unusual position of trying to defeat a measure that contains a bounty of high-priority local projects for fellow members. A vote against the conference report would have been a vote to delay highly coveted federal transportation money for members' districts.

Although there were no statements on the floor, in a statement shortly after the vote, Shuster denounced the Republican leadership's handling of the conference report. According to the chairman's news release, "the House Leadership and Appropriations Committee pulled a fast one and got away with it."

The House adopted the conference report by a final vote of 304-91. The Senate agreed to the conference report on Monday, October 4, 1999 by a vote of 88-3. Clinton Administration officials, while they have concerns about the bill's extensive project earmarking, have indicated that the President will not veto the bill when it reaches his desk.

**Conference Report Highlights.** H.R. 2084 provides \$50.2 billion for Fiscal Year 2000. The majority, \$27.7 billion, funds Federal Highway Administration programs. Transit programs would receive \$5.8 billion and the FAA would receive \$10.1 billion. For the most part, the measure follows the funding authorizations for highways and transit funding in the Transportation Equity Act for the 21<sup>st</sup> Century (TEA 21).

H.R. 2084 is beneficial to Texas transportation interests. One item included on the T&I Committee's hit list was a provision to distribute the Revenue Aligned Budget Authority (RABA) portion of the TEA 21 funds according to the Minimum Guarantee program formulas. This change is contrary to the distribution formula included in TEA 21, which directed a portion of the RABA funds to all programs, including FHWA administrative programs. Instead, the conference report instructs the FHWA to distribute these funds to the States based on their Minimum Guarantee program percentages. This provision will result in Texas receiving at least \$1.7 million more in FY 2000 than anticipated.

The conferees chose to earmark a significant portion of the Administration's discretionary program funds for FY 2000. In particular, the report earmarks about half of the National Corridor Planning and Development Program and Coordinated Border Infrastructure Program funds, including \$15 million for Corridor 18 (I 69) in Texas. In addition, the report directs that \$10 million be made available only to the states of Arizona, California, New Mexico, and Texas for safety and enforcement enhancements at border crossings as well as to construction access and egress and other roadway improvements directly related to the efficient operation of border facilities.

Other specific Texas discretionary highway program earmarks are listed in the table below.

<i>Discretionary Program</i>	<i>Project Description</i>	<i>Conference Report Amount</i>
FHWA Structures Research	Development of technology to prevent and mitigate alkali silica reactivity utilizing lithium salts	Up to \$1,000,000 (nationwide)
Intelligent Transportation Systems	TTI Center of Excellence	\$1,000,000
	Corpus Christi	\$1,500,000
	Fort Worth	\$2,500,000
	Houston	\$1,500,000
	State of Texas	\$4,000,000
Transportation and Community and System Preservation Program	Fort Worth corridor redevelopment and transit linkages	\$1,500,000
	Houston Main Street corridor livable communities	\$500,000
	Lufkin Small Town Livability Demonstration Project	\$400,000
Bridge Discretionary Program	Paso Del Norte International Bridge (removal of customs head houses)	\$1,200,000

Texas transit earmarks in H.R. 2084 are:

<i>Program</i>	<i>Project Description</i>	<i>Conference Report Amount</i>
Bus and Bus Facilities	Austin buses	\$1,750,000
	Beaumont Municipal Transit System buses and bus facilities	\$1,000,000
	Brazos Transit Authority buses and bus facilities	\$1,000,000
	El Paso Sun Metro buses	\$1,000,000
	Fort Worth bus replacement (including CNG vehicles) and paratransit vehicles	\$2,500,000
	Fort Worth Intermodal transportation center	\$3,100,000
	Galveston buses and bus facilities	\$1,000,000
	Texas statewide small urban and rural buses	\$5,000,000
New Fixed Guideway Systems	Austin Capital Metro light rail corridor	\$1,000,000
	Dallas north central light rail extension	\$50,000,000
	Galveston rail trolley extension	\$1,500,000
	Houston advanced transit program	\$3,000,000
	Houston regional bus plan	\$52,770,000
Job Access and Reverse Commute Grant Program	Dallas	\$1,500,000

## **Senate EPW Committee Passes Conformity Measure**

### ***First Step Toward Relief for Non-attainment Transportation Plans***

On September 29, 1999, the Senate Environment and Public Works Committee took the first step toward providing necessary relief for transportation plans in the nation's non-attainment areas. The committee voted 10-8 (along strict party lines) to pass S. 1053, a measure to restore needed flexibility provisions for transportation plans in areas charged with meeting Clean Air Act air quality attainment goals.

***Texas Potentially Affected by Revised Transportation Conformity Regulations.*** On March 2, 1999, the U.S. Court of Appeals for the District of Columbia Circuit invalidated several provisions in the Environmental Protection Agency's (EPA) transportation conformity regulations. In that case, the Environmental Defense Fund argued that certain provisions in the EPA regulations were improper and violated the spirit of the Clean Air Act Amendments of 1990. The invalidated provisions had allowed transportation mobility projects to proceed while the nation's non-attainment areas develop their air quality improvement plans.

S. 1053 proposes to reinstate the flexibility provisions invalidated by the court. In particular, states and localities could again proceed with projects that had already received clearance through the National Environmental Protection Act (NEPA) review process, even though the region's transportation plan had not shown "conformity" to the region's air quality improvement plan.

***New Non-Attainment Areas Pose A Special Situation.*** The areas most drastically affected by the March 2, 1999 court case are those regions that EPA will soon designate as non-attainment under the new "8-hour air quality standard." For Texas, that would include new non-attainment areas in Austin, San Antonio, and the Tyler-Longview region as well as existing non-attainment areas in Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and

Houston. This designation is scheduled to occur in July 2000. Demonstrating that the regions' transportation plans "conform" to their air quality plans will be a problem because those regions will not have developed their plans. These regions need time to develop their air quality plans under the new standard without the threat of losing often environmentally beneficial transportation mobility projects.

***Texas Delegation Briefed on Impacts of Transportation Conformity Cases.*** On September 21, 1999, staff from the Texas Department of Transportation (TxDOT) and the Texas Natural Resource Conservation Commission (TNRCC) briefed members of the Texas delegation and their staff on the transportation conformity issue. Twenty-one staff members (representing 14 member offices) heard TxDOT and TNRCC staff explain how the recent decision could halt up to \$1.3 billion worth of transportation mobility projects in the state's current and near non-attainment areas over the next three to five years.

At the briefing, agency staff described the long, detailed process necessary to develop the air quality improvement plan (known as the State Implementation Plan or SIP) and then use that plan to determine if the region's proposed transportation projects "conform" or help meet air quality improvement goals by maintaining or reducing vehicle emissions. Using the Austin region as an example, the TxDOT and TNRCC staff explained that it is likely that it will take at least 34 months to develop all of the necessary information and plans to complete the transportation conformity process for the region. Under the DC Circuit's March 2 ruling, no major mobility expansion projects can move forward in a non-attainment region until the EPA hands down a conformity determination. This would increase congestion and damage air quality in those regions.

***Fate of S. 1053 and Other Efforts is Uncertain.*** While the Senate committee has at

least held hearings and voted out S. 1053, little other activity has occurred on this issue. As noted above, the committee vote was strictly along party lines, with Democrats expressing concern that states would take advantage of any flexibility provisions to violate the intent of the Clean Air Act. The example before everyone's eyes is Atlanta, which used EPA's previous flexibility provisions to stack up as much as ten years' worth of transportation projects before the EPA rejected their air quality plan.

This same concern about states cheating is echoed on the House side of the Capitol, where **Missouri Congressman James Talent** (R) has filed the companion legislation to S. 1053. His bill, H.R. 1876, has been referred to the House Commerce Committee, but no action has been taken on the bill thus far. Four Texans have signed on as co-sponsors of H.R. 1876: Representatives **Ralph Hall** (D – Rockwall),

**Jim Turner** (D – Crockett), **Pete Sessions** (R – Dallas), and **Joe Barton** (R – Ennis). Both Texas Senators, **Phil Gramm** (R) and **Kay Bailey Hutchison** (R), are S. 1053 cosponsors.

The biggest challenge facing both bills is the unsavory prospect of amending the Clean Air Act during election year 2000. Few Members of Congress want to be viewed as anti-environmental, even when such a vote would provide needed relief for their districts. TxDOT and TNRCC are currently working to educate the Texas Delegation and other states on the impacts of the transportation conformity regulations on the state's major metropolitan areas and working to find a compromise solution. The goal is to provide a return of some degree of flexibility so that states and localities can work together to develop transportation and air quality plans that will meet both mobility and clean air goals.

## **AIP Authorization Extended** ***Congress Continues Efforts on Multi-Year Bill***

On Monday, September 27, 1999, the House passed, by voice vote, a \$290 million airport construction authorization bill (S. 1637), clearing the measure for the president's signature. The bill provides the authorization necessary for the FAA to release the construction funds already appropriated for the remainder of Fiscal Year 1999. President Clinton signed the measure into law on September 29, 1999, one-day before the funds would have expired. The bill will free up some \$3.7 million in funding for Texas' general aviation and reliever airports.

House Transportation and Infrastructure Committee Chairman Bud Shuster had hoped to use the potential lapse of these funds to pressure the Senate to move on a more comprehensive, multi-year FAA reauthorization bill. However, when the Senate failed to work out its differences on that measure, S. 82, before the end of the fiscal year, members placed pressure

on Shuster to pass the short-term bill to avoid the loss of funds.

***Progress Slow on the Multi-Year Bill.*** On Monday, October 4, 1999, the Senate finally began debating S. 82, its multi-year FAA authorization bill. Senate leadership has been trying to bring the measure to the Senate floor for weeks. Several senators have blocked these efforts over a provision that would increase the number of flights allowed at Ronald Reagan Washington National airport, Chicago's O'Hare airport, and New York's JFK and LaGuardia airports.

Senate leaders won agreement to bring the bill to the floor only after they agreed to allow **Senator Charles Robb** (D-Virginia) to offer an amendment to delete the section permitting more and longer flights at Reagan National Airport. If Senator Robb's amendment succeeds it could clear the way for Senate approval of S. 82 by the end of the week.

If the Senate passes S. 82, intense negotiations with the House could begin to develop a compromise bill. The House version, H.R. 1000, passed the House in June and would provide \$59.3 billion over five-years. H.R. 1000 contains its own controversial provision to remove the Airport and Airways Trust Fund

from the general budget. This provision would essentially guarantee that all airport taxes collected be spent on aviation projects. Currently only about half of the funds in the Airport and Airways Trust Fund are spent on projects; the rest is used to offset other federal spending.

## **Clinton Signs FY 2000 Energy & Water Development Bill *Measure Provides Funding for GIWW Project, Coastal Studies***

President Bill Clinton last week signed into law a bill to provide Fiscal Year 2000 funding for the U.S. Army Corps of Engineers and its waterway construction and investigations programs.

The bill provides \$9 million for the construction of breakwater barriers at the

Aransas National Wildlife Refuge. This project will reduce erosion created by traffic on the Gulf Intracoastal Waterway. The bill also includes \$700,000 for a feasibility study on widening the Sabine/Neches channel and \$100,000 to investigate coastal erosion from Sabine Pass to Galveston Bay.

## **TxDOT Welcomes New Washington Representative *Guzzo Joins Legislative Affairs Office Staff***

At the beginning of September, the Texas Department of Transportation's Legislative Affairs Office added additional talent to its Federal Legislative Affairs Section. **Mr. Joseph L. Guzzo** is TxDOT's new Washington Representative. Guzzo works out of the Washington DC office of the Texas Office of State-Federal Relations.

Prior to joining TxDOT, Guzzo was Director of Legislative Affairs for Techmatics, Inc, a military services company that works primarily with the Navy. From 1991 through 1995, he

served as a legislative assistant in the office of **Congressman Bud Shuster** (R-Pennsylvania), who now chairs the House Transportation and Infrastructure Committee.

Guzzo lives in Alexandria, Virginia with his wife, Stephanie Koch. He is a 1990 graduate of Radford University in Radford, Virginia, with a major in political science and a double minor in sociology and computer science. Guzzo also served as a member of Virginia Governor Jim Gilmore's transportation transition team.

Guzzo may be reached at (202) 638-3927.

The *Federal Flyer* is a publication of the TxDOT Legislative Affairs Office. It is intended to provide up-to-date information on major legislative activities in the 106th Congress for the management of the Texas Department of Transportation, state leaders, and others interested in Texas transportation issues. This report will also feature key activities in the national transportation community. Sources include news services and staff reports.

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